19 pr

MONTANA LEGISLATIVE HISTORY

Chapter 560 1983

Bill HB 792 S _____ Original bill & history ✓ C

H. Committee on Human Services			S. Committee on P H, W & Safety		
Hearing Date(s)	2/17	C	Hearing Date(s)	3/21	C
	2/18	C		3/21	C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

RETURNED TO HOUSE WITH AMENDMENTS: 3/28/83
2ND READING: 04/04/83, BE CONCURRED IN AYES: 86; NAYS: 2
3RD READING: 04/05/83, BE CONCURRED IN AYES: 98; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/14/83
SIGNED: 04/18/83, CHAPTER 572

HB 789 -- ABRAMS, SPAETH, D. BROWN, ET AL. -- PROVIDING THAT THE DEPARTMENT OF REVENUE'S DESIGNEE INSTEAD OF ITS AGENT IS THE PARTY DEFENDANT IN CERTAIN PROCEEDINGS; AMENDING ....

INTRODUCED: 02/14/83
REFERRED TO COMMITTEE ON TAXATION: 02/14/83
HEARING: 2/21/83
REPORT: 02/21/83, DO PASS
2ND READING: 02/22/83, DO PASS AYES: 94; NAYS: 2
3RD READING: 02/23/83, DO PASS AYES: 95; NAYS: 4

TRANSMITTED TO SENATE: 02/23/83
REFERRED TO COMMITTEE ON JUDICIARY: 3/1/83
HEARING: 3/21/83
REPORT: 03/21/83, BE CONCURRED IN
2ND READING: 03/23/83 AYES: 50; NAYS: 0
3RD READING: 03/25/83 AYES: 49; NAYS: 0

RETURNED TO HOUSE: 03/25/83

TRANSMITTED TO GOVERNOR: 04/01/83
SIGNED: 04/05/83, CHAPTER 398

HB 790 -- D. BROWN -- TO EXPAND THE RENEWABLE ENERGY GRANT AND LOAN PROGRAM TO INCLUDE FUNDING FOR PROJECTS THAT ENHANCE THE EFFICIENT USE OF NONRENEWABLE ENERGY SOURCES; AMENDING ....

INTRODUCED: 02/14/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 02/14/83
HEARING: 2/17/83
DIED IN COMMITTEE

HB 791 -- ZABROCKI -- PROVIDING A PAY SCHEDULE FOR INSTITUTIONAL TEACHERS FOR FISCAL YEAR 1984; PROVIDING FOR THE ADJUSTMENT OF THIS SCHEDULE FOR SUCCEEDING FISCAL YEARS; PROHIBITING A PUBLIC EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE OF INSTITUTIONAL TEACHERS FROM BARGAINING COLLECTIVELY WITH RESPECT TO WAGES; AMENDING ....

INTRODUCED: 02/14/83
REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES: 02/14/83
HEARING: 2/18/83
DIED IN COMMITTEE

HB 792 -- WINSLOW -- TO ALLOW EMERGENCY ADMISSIONS TO THE STATE HOSPITAL FROM A LOCAL FACILITY THAT DOES NOT HAVE AVAILABLE SPACE TO DETAIN A PERSON WHO APPEARS TO BE SERIOUSLY MENTALLY ILL; AMENDING ....

INTRODUCED: 02/14/83
REFERRED TO COMMITTEE ON HUMAN SERVICES: 02/14/83
HEARING: 2/17/83
REPORT: 02/18/83, DO PASS

2ND READING: 02/19/83, DO PASS, AS AMENDED AYES: 89; NAYS: 0
3RD READING: 02/22/83, DO PASS AYES: 95; NAYS: 5

TRANSMITTED TO SENATE: 2/22/83
REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY: 3/1/83
HEARING: 3/21/83
REPORT: 03/21/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/23/83 AYES: 50; NAYS: 0
3RD READING: 03/25/83 AYES: 48; NAYS: 1

RETURNED TO HOUSE WITH AMENDMENTS: 03/25/83
2ND READING: 04/04/83, BE CONCURRED IN AYES: 85; NAYS: 0
3RD READING: 04/05/83, BE CONCURRED IN AYES: 98; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/14/83
SIGNED: 04/18/83, CHAPTER 560

HB 793 -- BERTELSEN -- PROVIDING FOR OPTIONAL LOCAL GOVERNMENT TAXES; AUTHORIZING A 55-MILL ALL-PURPOSE LEVY FOR COUNTIES, A LOCAL GOVERNMENT INCOME TAX NOT TO EXCEED 20 PERCENT OF STATE INCOME TAX LIABILITIES TO BE ESTABLISHED COUNTYWIDE AFTER APPROVAL BY THE ELECTORATE, A LOCAL GOVERNMENT MOTOR VEHICLE LICENSE FEE, AND A HOTEL OR MOTEL ROOM TAX; AMENDING ....

INTRODUCED: 02/14/83
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 02/14/83
HEARING: 2/19/83
REPORT: 03/22/83, DO PASS, AS AMENDED
REREFERRED TO COMMITTEE ON APPROPRIATIONS: 03/24/83
REPORT: 03/28/83, DO PASS
2ND READING: 03/28/83, DO PASS AYES: 52; NAYS: 44
3RD READING: 03/28/83, DO PASS AYES: 52; NAYS: 46

TRANSMITTED TO SENATE: 3/28/83
REFERRED TO COMMITTEE ON FINANCE & CLAIMS: 4/5/83
HEARING: 04/11/83
ON MOTION, 4/14/83, THAT THE BILL BE TAKEN FROM THE TABLE IN THE COMMITTEE ON FINANCE & CLAIMS, PRINTED AND PLACED ON 2ND READING. MOTION FAILED BY THE FOLLOWING VOTE: AYES: 21; NAYS: 29.
DIED IN SENATE COMMITTEE

HB 794 -- DAILY -- TO CLARIFY THE DEFINITION OF "SCHOOL BUS" ...; ... AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.
BY REQUEST OF: THE HOUSE EDUCATION AND CULTURAL RESOURCES COMMITTEE

INTRODUCED: 02/15/83
REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES: 02/15/83
HEARING: 2/16/83
REPORT: 02/16/83, DO PASS
2ND READING: 02/18/83, DO PASS AYES: 89; NAYS: 4
3RD READING: 02/22/83, DO PASS AYES: 98; NAYS: 1

TRANSMITTED TO SENATE: 2/22/83
REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES: 3/1/83
HEARING: 3/16/83
REPORT: 3/18/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/21/83 AYES: 48; NAYS: 0
3RD READING: 03/23/83 AYES: 49; NAYS: 1

HOUSE BILL NO. 792

INTRODUCED BY WINSLOW

IN THE HOUSE

February 5, 1983	On motion, rules suspended. Bill allowed to be introduced.
February 14, 1983	Introduced and referred to Committee on Human Services.
February 18, 1983	Committee recommend bill do pass. Report adopted.
February 19, 1983	Bill printed and placed on members' desks.
	Second reading, do pass as amended.
February 22, 1983	Correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 1, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
March 21, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 23, 1983	Second reading, concurred in.
March 25, 1983	Third reading, concurred in. Ayes, 48; Noes, 1.

IN THE HOUSE

March 25, 1983	Returned to House with amendments.
March 31, 1983	Second reading, pass consideration.
April 1, 1983	Second reading, pass consideration.
April 4, 1983	Second reading, amendments concurred in.
April 5, 1983	Third reading, amendments concurred in.
	Sent to enrolling.
	Reported correctly enrolled.

House BILL NO. 792

INTRODUCED BY Winslow

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW EMERGENCY ADMISSIONS TO THE STATE HOSPITAL FROM A LOCAL FACILITY THAT DOES NOT HAVE AVAILABLE SPACE TO DETAIN A PERSON WHO APPEARS TO BE SERIOUSLY MENTALLY ILL; AMENDING SECTION 53-21-129, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-21-129, MCA, is amended to read:

"53-21-129. Emergency situation -- petition -- detention. (1) When an emergency situation exists, a peace officer may take any person who appears to be seriously mentally ill and as a result of serious mental illness to be a danger to others or to himself into custody only for sufficient time to contact a professional person for emergency evaluation. If possible, a professional person should be called prior to taking the person into custody.

(2) If the professional person agrees that the person detained appears to be seriously mentally ill and that an emergency situation exists, then the person may be detained and treated as provided in subsection (3) or until the next regular business day. At that time, the professional person shall release the detained person or file his findings with the county attorney who, if he determines probable cause to exist, shall file the petition provided for in 53-21-121 through 53-21-126 in the county of the respondent's residence. In either case, the professional person shall file a report with the court explaining his actions.

(3) The county attorney of any county may make arrangements with any federal, state, regional, or private mental facility or with a mental health facility in any county for the detention of persons held pursuant to this section. Whenever an arrangement has been made with a facility that does not, at the time of the emergency, have adequate room available to detain the person at that facility, the person may be transported to the state hospital for examination and treatment as provided in this part. This determination must be made on an individual basis in each case, and the professional person at the local facility must certify to the county attorney that the facility does not have adequate room at that time."

NEW SECTION. Section 2. Effective date. This act is effective on passage and approval.

-End-

INTRODUCED BILL

MINUTES OF THE MEETING OF THE HUMAN SERVICES COMMITTEE
February 17, 1983, 7:30 p.m.

The meeting of the Human Services Committee held on February 17, 1983, 7:30 p.m. in Room 224A of the Capitol Building was called to order by Chairman Marjorie Hart. All members were present except Reps. Connelly, Darko, Jones and Seifert, who were absent, and Reps. Fabrega and Manahan, who were excused.

HOUSE BILL 782

REP. WINSLOW, sponsor. This bill would establish a Board of Behavioral Science. The purpose of the Board would be to ensure protection of the public health, safety and welfare through the oversight and coordination of the activities of the several boards associated with the behavioral sciences. He did some research on how boards and professions would fall into place. He took the example of a Behavioral Science Board which would be an umbrella board behavioral sciences (counseling, psychology, those that are involved in a close area of mental health). The overall board would not be a board as such but would have two representatives from each of the counseling entities on that overall board. They would be charged with dealing with some of the problems of duplication and overlap which are often brought to legislators to decide where they belong. They would have equal representation on this overall board, meeting only once a year, making sure that the legislation that comes forth is proper, working it out with all the professions involved. He went through the bill with the Committee. This bill would go into place if the licensed social worker and licensed professional counselor are passed. If they are not passed, this board will not go into affect. The real purpose is to take those boards that are very close; deal with some of their inner-professional problems; and help solve some of the problems in-house before they are brought to us as legislators.

PROPONENTS: None

OPPONENTS:

SHIRLEY MILLER, Bureau Chief, Professional and Occupational Licensing, appeared in opposition to HOUSE BILL 782 on behalf of the bureau and of Gary Buchanan, Director of the Department of Commerce. Reading this bill the second time, she found it was a governing board. It shall adopt rules developed by each professional board. The other bills mentioned where the other two boards shall adopt rules. This board shall also license or certify qualified applicants. That is true in the other bills as well (section 6). There are several other areas of duplication and we feel this is a duplication of regulatory activities. It would lead to increased licensing problems and it would create delays which would be a hardship on the professionals being licensed.

REP. WINSLOW closed saying he dealt with the Council and they assured him that in a complication, those overlap areas are taken care of. But in rule changes, those rules will have to be approved by the overall Board.

QUESTIONS:

REP. BROWN: Is there a statement of intent? Fiscal note?
REP. WINSLOW: There wouldn't be any additional charge for licenses at all. The only cost that would be involved would be once a year. We would have two counselors and two social workers coming to a meeting one day a year is the only cost that would be involved. There is a statement of intent.

CHAIRMAN HART closed the hearing on HOUSE BILL 782.

HOUSE BILL 792

REP. WINSLOW, sponsor. This bill would allow a seriously mentally ill person to be transported to the state hospital for evaluation and treatment in emergency situations. He stated this bill was drafted because a physician in Poplar was trying to get a young man into a psychiatric unit. He had tried to commit suicide twice. This bill only calls for emergency admittance to Warm Springs. The person may be transported to a state hospital for treatment. This must be done on an individual basis and the professional person must certify that the local facility does not have adequate room at that time. This bill merely calls for emergency admission and transportation to Warm Springs in a case where they cannot get into the nearest facility as there are no beds available.

PROPONENTS: None

OPPONENTS:

CURT CHISHOLM, Deputy Director, Department of Institutions, stated we have the same problem at Warm Springs State Hospital relative to availability of beds. We simply do not have the room down there. It would be inappropriate to expand the provisions of emergency detention. Another issue that must be raised is the issue of protecting due process and the issue of venue. The department cannot support this bill and would strongly urge do not pass.

JAMES JOHNSON said he had represented the residents of Warm Springs for the last seven years. He urged the Committee to kill this bill. On line 23, subsection (3), that clause suspends all the civil rights of the person who would come in under the provisions that Mr. Winslow is supporting. The emergency provisions as they stand now would allow the operation of the law in those individual cases that Mr. Winslow wants to address. That would be possible by contacting the Department of Institutions. The law as it stands now would preserve the civil rights. The person would then be entitled to a hearing in the community regarding his mental problems.

REP. WINSLOW closed saying the purpose is to deal with that emergency case of an individual that there is not a bed for and define this in such a way that the county attorney feels comfortable with it.

QUESTIONS:

CHAIRMAN HART asked what kind of facility would you need in each town to put these persons in?
REP. WINSLOW: You need barred rooms, locked doors, trained personnel--you are getting into a real psychiatric situation.

REP. SWIFT: I don't read this as you are incarcerating that individual. He would be there one day or until the evaluation process is over.
REP. WINSLOW: That is right. It is only intended to be a safety valve for an emergency situation.

REP. SWIFT: I thought the county had a responsibility for carrying the individual both ways.
REP. WINSLOW: That is right.

REP. DOZIER: Could you tell me what town the incident happened which you referred to?
REP. WINSLOW: Poplar.

REP. DOZIER: Could we amend this bill to say the nearest facility.
REP. WINSLOW: The county has to cover the cost of transportation.
REP. DOZIER: Then the state would have to pick up the cost of that detention?
CURT CHISHOLM: No. That would be the responsibility of the county.
REP. WINSLOW: The other amendment would say if beds are available.

CHAIRMAN HART closed the hearing on HOUSE BILL 792.

VISITOR'S REGISTER

HOUSE HUMAN SERVICES COMMITTEE

BILL HOUSE BILL 792 DATE 2-17

SPONSOR Rep. Winslow

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
James Dorr Johnson	Butte	Lawyer; self		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33

MINUTES OF THE MEETING OF THE HUMAN SERVICES COMMITTEE
February 18, 1983

The meeting of the Human Services Committee held on February 18, 1983, 11:30 a.m. in Room 224A of the Capitol Building was called to order by Chairman Marjorie Hart. All members were present except Reps. Connelly, Farris and Seifert, who were absent.

HOUSE BILL 517

Rep. Keenan, sponsor, said that the subject matter of this bill is covered in administrative rules so there is no need for this legislation.

CHAIRMAN HART closed the hearing on HOUSE BILL 517.

HOUSE BILL 708

REP. QUILICI, sponsor, stated that this bill will provide that low-income energy assistance programs and cold weatherization programs be administered by community nonprofit entities. He said this bill has a lot of advantages and would stop duplication of administrative costs. He said one of the reasons he wanted to sponsor this legislation is that he is on the consumer council that regulates rates in Montana and also on the Pacific Northwest Power and Planning Council which is now addressing a draft plan on energy conservation. Another reason he particularly likes this bill is that under the HRDC's, there are a lot of low income and elderly people who will not go up to the welfare office to get energy assistance. This is not a welfare program. This is a program to help low income people with energy needs and weatherization.

PROPONENTS:

JIM SMITH, Region 8 Community Action Agencies Association, stated that Montana has an opportunity to integrate two low-income energy programs with one another. He hoped that Montana would take advantage of it.

DEAN LUPTAK, Energy Assistance Program Director for District 7 Human Resources Development Council, said that in HOUSE BILL 708 are two essential elements of responsible, cost-effective human service program delivery. These elements are the coordination of services and the accessibility of the program to participants. He passed out copies of his testimony (EXHIBIT 1) and a fact sheet (EXHIBIT 2).

HOUSE BILL 784

REP. VINGER, sponsor. This bill would provide for 3 consecutive days of nursing home payments for nursing home patients who are hospitalized.

REP. DOZIER: In taking a patient under medicare to the hospital, if there is a waiting list for that nursing home, then SRS will pay three days rent on that bed for that patient to keep it open for that patient. If there is no waiting list, SRS does not pay anything. This bill is saying even if there is no waiting list we still want you to pay for three days.

REP. FABREGA moved to table HOUSE BILL 784.

The motion passed with REP. SOLBERG voting no.

HOUSE BILL 792

REP. WINSLOW, sponsor. This bill would allow emergency admissions to state hospital from a local facility that does not have available space to detain a person who appears to be seriously mentally ill.

REP. WINSLOW moved that HOUSE BILL 792 DO PASS but with some qualifications.

REP. WINSLOW said this was opposed by the Department of Institutions and Curt Chisholm has some amendments to make this a better bill. One of the things he definitely likes is this is going to require in the case of sending somebody to Warm Springs a signature from the physician to the attorney. People in the area are already sending their people there.

CHAIRMAN HART stated the amendment was to check out the nearest facility.

REP. MENAHAN: I don't think the county can do anthing to put them in there unless the judge o.k's it.

REP. WINSLOW: I will amend this bill on the floor.

The motion for HOUSE BILL 792 DO PASS carried unanimously.

STANDING COMMITTEE REPORT

February 18, 19 83

MR. SPEAKER

We, your committee on HUMAN SERVICES

having had under consideration HOUSE Bill No. 792

first reading copy (White Color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW EMERGENCY ADMISSIONS TO THE STATE HOSPITAL FROM A LOCAL FACILITY THAT DOES NOT HAVE AVAILABLE SPACE TO DETAIN A PERSON WHO APPEARS TO BE SERIOUSLY MENTALLY ILL; AMENDING SECTION 53-21-129, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 792

DO PASS

MARJORIE HART Chairman.

STATE PUB. CO.
Helena, Mont.

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

MARCH 21, 1983

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Tom Hager on Monday, March 21, 1983 in Room 410 of the State Capitol Building.

ROLL CALL: All members were present. However, Senators Norman, Christiaens, and Jacobson arrived late. Woody Wright, staff attorney, was also present.

There were visitors in attendance. See exhibits.

CONSIDERATION OF HOUSE BILL 792: Representative Cal Winslow of House District 65, the chief sponsor, of House Bill 792 gave a brief resume of the bill. This bill is an act to allow emergency admissions to the State Hospital from a local facility that does not have available space to detain a person who appears to be seriously ill, and providing an immediate effective date.

Representative Winslow stated that he introduced this bill at the request of a Billings Psychiatrist. At the present time when there are no beds available at the local hospital the mental patient is sometimes detained at the local jail.

Bill Leary, representing the Montana Hospital Association, stood in support of the bill. This bill is an expression that appropriate care must be given to mental patients.

Kelly Moorse, executive secretary of the Mental Disabilities Board of Visitors from the Office of the Governor, stood in support of the bill if it were amended. House Bill 792 is unacceptable on page 1 line 23, because it suspends a persons civil rights and does not provide due process for the detained person. In order to protect an individual's rights when considering an involuntary detention a petition for commitment must be filed or the person should be released. As written, the bill on page 1, line 23, does not provide for a filing provision as required by the Mental Commitment and Treatment Act. They do support the provision whereby Warm Springs must be notified prior to a transfer and state that a bed is available. Ms. Moorse handed in written testimony for the consideration of the committee. See exhibit 1.

Jim Johnson, attorney for legal services, stood in support of everything Kelly Moorse had stated previously. He stated that for the last 7 years he has represented the patients in Warm Springs. He urged the committee to amend the bill on page 1, line 23.

With no further proponents, the chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period from the committee.

Senator Himsl asked who pays for the transportation and care of a patient. This expense is a local expense paid by the county.

Senator Himsl asked if all hospitals have psychiatric units. Hospitals in Billings, Great Falls, Butte, Helena, and Missoula all have psychiatric units.

Senator Stephens asked what is the process at the present time when there is not enough room at the local hospitals.

Representative Winslow closed.

CONSIDERATION OF HOUSE BILL 728: Representative John Shontz of House District 53, the chief sponsor of House Bill 728, gave a brief resume of the bill. This bill is an act relating to county control of littering and dogs; providing for county ordinance power to control littering and provide a penalty; and providing for a penalty for violation of a dog control ordinance.

Representative Shontz stated that this bill would give the counties ordinance authority.

Senator Larry Tveit of Senate District 27 stood in support of the bill.

Mike Stephens, Montana Association of Counties, stood in support of the bill. He stated that this bill gives both flexibility and control for the counties.

With no further proponents the chairman called on the opponents. Hearing none the meeting was opened to a question and answer period from the committee.

DISPOSITION OF HOUSE BILL 728:

A motion was made by Senator Norman that the bill be amended on page 2, following, line, 16; to add a new section 3, the severability clause. Motion carried with all voting "yes" except Senator Christiaens who abstained.

A motion was made by Senator Marbut that the bill be amended on page 2, lines 7 through 10. A misdemeanor punishable by a fine of not more than $500 is to be amended into the bill. Senator Marbut stated that this would allow the counties to get some action. Motion carried.

Senator Himsl told of some of the problems in his area.

Senator Marbut stated that he is concerned with the local landowners and how this bill would affect them. A motion was made by Senator Marbut that the bill be amended with a new Section 5 to add flexibility for the landowners.

Senator Christiaens stated that he felt that the flexibility for the landowners would be hard to enforce.

Senator Marbut's motion failed with everyone voting "no" except Senator Marbut.

A motion was made by Senator Marbut that HB 728 BE CONCURRED IN as amended. Motion carried. Senator Marbut will carry this bill on the floor.

DISPOSITION OF HOUSE BILL 792: This bill introduced by Representative Winslow is an act to allow emergency admissions to the state hospital from a local facility that does not have available space to detain a person who appears to be seriously mentally ill,and providing an immediate effective date.

A motion was made by Senator Marbut that HB 792 be amended on page 1, line 23, strike: "as provided in subsection (3) or". Motion carried.

A motion was made by Senator Himsl that HB 792 BE CONCURRED IN as amended. Motion carried. Senator Himsl will carry this bill on the floor of the Senate.

DISCUSSION OF HOUSE BILL 284: This bill sponsored by Representative Cal Winslow is an act to license social workers.

EXHIBIT 17

OFFICE OF THE GOVERNOR
MENTAL DISABILITIES BOARD OF VISITORS

TED SCHWINDEN, GOVERNOR — CAPITOL STATION

STATE OF MONTANA

(406) 449-3955 — HELENA, MONTANA 59620

March 21, 1983

Senator Tom Hager, Chairman
Public Health, Welfare and Safety Committee
Senate Chambers
State Capitol
Helena, Montana 59620

Mr. Chairman
Members of the Committee:

For the record my name is Kelly Moorse and I am the staff person for the Mental Disabilities Board of Visitors. The Board of Visitors in its mandate to protect patient rights opposes House Bill 792 in its present format.

House Bill 792, as worded on page one, line 23, is not acceptable because it suspends a persons civil rights and does not provide due process for the detained person. In order to protect an individual's rights when considering an involuntary detention a petition for commitment must be filed or the person should be released. As it reads now, the language on page one, line 23, does not provide for a filing provision as required by the Mental Commitment and Treatment Act.

The Montana Mental Health Association joins us in our opposition to House Bill 792. Joy McGrath, a Director for the Mental Health Associaiton, is testifying on two other bills before the House Human Services Committee, and asked me to convey the Associations's concerns. We do support the provision whereby Warm Springs must be notified prior to a transfer and state that a bed is available.

Sincerely,

Kelly Moorse
Executive Secretary

AN EQUAL OPPORTUNITY EMPLOYER

STANDING COMMITTEE REPORT

MARCH 21, 19 83

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE Bill No. 792

WINSLOW (HIMSL)

Respectfully report as follows: That HOUSE Bill No. 792

blue copy be amended as follows:

1. Page 1, line 23.
Strike: "as provided in subsection (3) or"

~~DO NOT~~ And as so amended,
BE CONCURRED IN

SENATOR TOM HAGER Chairman.

STATE PUB. CO.
Helena, Mont.

HOUSE BILL NO. 792

INTRODUCED BY WINSLOW

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW EMERGENCY ADMISSIONS TO THE STATE HOSPITAL FROM A LOCAL FACILITY THAT DOES NOT HAVE AVAILABLE SPACE TO DETAIN A PERSON WHO APPEARS TO BE SERIOUSLY MENTALLY ILL; AMENDING SECTION 53-21-129, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-21-129, MCA, is amended to read:

"53-21-129. Emergency situation -- petition -- detention. (1) When an emergency situation exists, a peace officer may take any person who appears to be seriously mentally ill and as a result of serious mental illness to be a danger to others or to himself into custody only for sufficient time to contact a professional person for emergency evaluation. If possible, a professional person should be called prior to taking the person into custody.

(2) If the professional person agrees that the person detained appears to be seriously mentally ill and that an emergency situation exists, then the person may be detained and treated ~~as provided in subsection (1) or~~ until the next regular business day. At that time, the professional person shall release the detained person or file his findings with the county attorney who, if he determines probable cause to exist, shall file the petition provided for in 53-21-121 through 53-21-126 in the county of the respondent's residence. In either case, the professional person shall file a report with the court explaining his actions.

(3) The county attorney of any county may make arrangements with any federal, state, regional, or private mental facility or with a mental health facility in any county for the detention of persons held pursuant to this section. Whenever an arrangement has been made with a facility that does not, at the time of the emergency, have ~~adequate room~~ A BED available to detain the person at that facility, the person may be transported to the state hospital for ~~examination~~ DETENTION and treatment as provided in this part. This determination must be made on an individual basis in each case, and the professional person at the local facility must certify to the county attorney that the facility does not have adequate room at that time.

~~(4) HOWEVER, BEFORE ANY PERSON IS TRANSFERRED TO THE STATE HOSPITAL UNDER THIS SECTION, THE STATE HOSPITAL MUST BE NOTIFIED PRIOR TO TRANSFER AND MUST STATE THAT A BED IS AVAILABLE FOR THE PERSON.~~"

NEW SECTION. Section 2. Effective date. This act is effective on passage and approval.

-End-

REFERENCE BILL